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FIFTH ANNUAL REPORT

of the

**SOUTH CAROLINA
SECOND INJURY FUND**

to the

GENERAL ASSEMBLY

July 1, 1978 through June 30, 1979

**Printed Under the Direction of the
State Budget and Control Board**

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LETTER OF TRANSMITTAL

Columbia, S. C. July 1, 1979

TO: His Excellency, the Governor of South Carolina, The Honorable Members of the Senate and House of Representatives, Columbia, South Carolina.

Gentlemen:

I am pleased to report herein the activities of the South Carolina Second Injury Fund for the fiscal year 1978-1979.

Respectfully submitted,

Douglas P. Crossman

Douglas P. Crossman, Director

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Second Injury Funds, also commonly referred to as Subsequent Injury Funds or Special Disability funds, are set up within the administrative framework of the Workmen's Compensation system to insure that an employer who hires a handicapped worker will not, in the event such worker suffers a subsequent injury on the job, be held liable for a greater disability than actually occurred while the worker was in his employment. Under such a system the employer pays only the additional disability resulting from the subsequent injury.

SOUTH CAROLINA SECOND INJURY FUND

Additional employment opportunities for disabled persons by removing an employer's fear of increased Workmen's Compensation costs. The system of apportionment varies from state to state, and a discussion of how the employer in South Carolina is reimbursed or how his liability is limited when the handicapped worker sustains a subsequent injury is found in a later section.

Douglas P. Crossman
Director

Total Dollars paid by the Second Injury Fund
To Insurance Companies or Self-Insurers

The Administration of the Second Injury Fund has changed both in structure and number of staff. The organization now consists of the Director, a Claims Manager, a Business Manager, two Claims Field Representatives, a Staff Assistant, and a Secretary. All staff members are initially responsible to the Director, and their major areas of activity are claims, finance, and employee insurance coverage.

The claims handling consists of receiving and processing claims against the Fund. This includes investigation, evaluation, and developing a course of action as well as reaching a disposition in each case. All fatal cases reported to the South Carolina Industrial Commission are reviewed by the staff; and in the absence of dependents or next-of-kin in fatal Workmen's Compensation cases, the Second Injury Fund is beneficiary of the commuted death benefits normally paid to the dependents or next-of-kin.

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HISTORICAL DEVELOPMENTS

Second Injury Funds, also commonly referred to as Subsequent Injury Funds or Special Disability funds, are set up within the administrative framework of the Workmen's Compensation system to insure that an employer who hires a handicapped worker will not, in the event such worker suffers a subsequent injury on the job, be held liable for a greater disability than actually occurred while the worker was in his employment. Under such a system the employer pays only the benefits that are due for the second injury. This creates additional employment opportunities for disabled workers by removing an employer's fear of increased Workmen's Compensation costs. The system of apportionment varies from state to state, and a discussion of how the employer in South Carolina is reimbursed or how his liability is limited when the handicapped worker sustains a subsequent injury is found in a later section.

The Workmen's Compensation Law in South Carolina has contained provision for Second Injury Fund benefits to insure employees since the Law was enacted in 1936. Inadequate funding and the narrow scope of the Law prevented effective utilization of the Fund by employers and employees. In 1972 the Act was amended creating a broad-coverage Second Injury Fund and again amended in 1974 establishing the Fund as a separate state agency.

ADMINISTRATION

The Administration of the Second Injury Fund has changed both in structure and number of staff. The organization now consists of the Director, a Claims Manager, a Business Manager, two Claims Field Representatives, a Staff Assistant, and a Secretary. All staff members are initially responsible to the Director, and their major areas of activity are claims, finance, and employer-insurance carrier education.

The claims handling consists of receiving and processing claims against the Fund. This includes investigation, evaluation, and developing a course of action as well as reaching a disposition in each case. All fatal cases reported to the South Carolina Industrial Commission are reviewed by the staff; and in the absence of dependents or next-of-kin in fatal Workmen's Compensation cases, the Second Injury Fund is beneficiary of the commuted death benefits normally paid to the dependents or next-of-kin.

The financial operation consists primarily of assessing all carriers—insurance companies, self-insured employers and self-insured funds. This is accomplished by using the formula found in Section 42-7-310 Code of Laws of South Carolina. From a very fundamental standpoint this operation is responsible for maintaining the solvency of the Fund.

The educational functions are accomplished by:

1. The Director of the Fund at various Industrial Commission, employer and insurance carrier conferences by presenting films about the Fund and then conducting question and answer sessions.
2. The Claims Field Representatives, while in the field attending hearings and conducting investigations, explaining to both employers and carriers the extent of coverage by the Fund.

STATUTORY AUTHORITY FOR THE AGENCY

Section 42-9-310 of the South Carolina Workmen's Compensation Law creates the Fund and establishes the agency to administer the Fund in accordance with the provisions of Section 42-9-400 and 42-9-410.

The following outline lists the basic requirements for reimbursement:

1. The employee must have a prior permanent physical impairment of such seriousness as to constitute a hindrance or obstacle to obtaining employment or reemployment.
2. (a) The employer must establish by written records that he had knowledge of the permanent physical impairment at the time the employee was hired or retained, and these records must be filed with the Industrial Commission and the Second Injury Fund when claim is made for reimbursement; or
 - (b) The employer may qualify for reimbursement if he can show proof that he did not have prior knowledge of the employee's pre-existing physical impairment, because the existence of such condition was concealed by the employee or was unknown to the employee.

3. The employee must sustain a subsequent occupational injury:
 - (a) Which results in the employer's liability for disability that is substantially greater than that which would have resulted from the new injury alone because of a combination with or aggravation of the prior impairment.
 - (b) Which most probably would not have occurred "but for" the presence of the prior impairment; or
 - (c) Which results in the death of the employee, and the death would not have occurred except for the pre-existing impairment.

The Second Injury Fund principle requires that costs of the benefits payable be allocated between the employer or insurer on one hand, and the Second Injury Fund, on the other. It is most common for the employer or his insurer to pay the disability caused by the second injury and the Second Injury Fund to make up the difference between the employer's liability and whatever is payable as a whole. In revising the Second Injury Fund in South Carolina, the Legislature attempted to establish a system of reimbursement that would eliminate a controversy over proportionate sharing in particular cases and expedite the other determinations that need to be made in order that the employee or his beneficiaries receive payments. For this reason, the 78 week rule was established requiring the employer to pay the first 78 weeks of disability. Thereafter, this same employer is eligible to receive reimbursement from the Second Injury Fund for all remaining benefits.

Before the Fund can reimburse an employer, a handicapped worker must suffer a subsequent injury. This injury must combine with or aggravate the prior impairment, thus causing liability greater than that which would have occurred from the subsequent injury alone. This is the basic concept of Second Injury Fund legislation; and without this increase in liability, the employer has not been placed at a disadvantage. Therefore, he would not be eligible for reimbursement.

FINANCIAL STATEMENT

FISCAL 1978 -79

Balance from previous year \$ 19,899.00

Receipts

| | |
|------------------------------|---------------------|
| Investments | \$ 71,915.00 |
| No Next-of-Kin Benefits..... | 31,800.00 |
| Assessments | <u>1,856,352.00</u> |
| Total..... | \$1,960,067.00 |

Disbursements

| | |
|-------------------------------|-------------------|
| Claims paid by the Fund | \$1,304,020.00 |
| Administrative Costs | <u>158,627.00</u> |
| Total..... | \$1,462,647.00 |

Balance in the Fund @ 30 Jun 79 \$ 517,319.00

ASSESSMENTS

Section 42-7-310 subsection (d) of the Workmen's Compensation Laws of South Carolina states that:

The funding of the Second Injury Fund on a continuing basis shall be by equitable assessments upon each carrier (which, by definition herein, shall include all insurance carriers, self-insurers and the State Workmen's Compensation Fund) in a manner as follows:

Each carrier shall, under regulations prescribed by the Industrial Commission, make payments to the Fund in an amount equal to that proportion of one hundred seventy-five percent of the total disbursement made from the Fund during the preceding fiscal year less the amount of the net assets in the Fund as of June thirtieth of the same fiscal year, which the *total benefits* paid by such carrier bore to the *total benefits* paid by all carriers during the calendar year which ended within the preceding fiscal year. An employer who has ceased to be a self-insurer shall continue to be liable for any assessments into the Fund on account of any benefits paid by him during such calendar year.

These assessments were sent to each carrier in Jul 79 and were subsequently received at the Second Injury Fund.

| | |
|--|----------------|
| 175% of the disbursement is | \$2,559,632.00 |
| Less remaining net assets @ 30 Jun 79 | 517,319.00 |
| Equals Second Injury Fund Assessment for 1978-79 . | 2,042,314.00 |

This assessment (\$2,042,314) divided by the total Workmen's Compensation Benefits paid by all carriers (\$61,096,700) equals the assessment rate (.03342756) applied to each carrier.

| | |
|-----------------------------|-----------|
| Pratt & Pratt | 5,110.00 |
| Pratt & Pratt Insurance Co. | 15,254.32 |
| Seaboard Fire & Marine | 11,385.15 |
| Security Insurance Co. | 13,421.57 |
| Shelby Mutual Insurance Co. | 7,715.24 |
| St. Paul | 1,251.70 |
| St. Paul Fire & Marine | 24,036.00 |
| State Farm | 61,789.85 |
| St. Paul Fire & Marine | 8,803.44 |
| Transit Insurance Co. | 18,003.30 |
| Travelers | 15,008.07 |

CLAIMS ACTIVITY AGAINST FUND

| | |
|---|-------------|
| Claims carried from 1977-78 | 615 |
| Claims against Fund | 471 |
| Claims closed | 295 |
| Claims open at end of fiscal year 1977-1978 | 791 |
| Increase in claims against Fund | |
| 1978-1979 as compared to 1977-1978 | 14% |
| Increase in claims open at end | |
| of 1979 compared to 1978 | 29% |
| Total claims paid | 155 |
| Average disbursement per case paid | \$8,413 |
| Reimbursements Fiscal Year 1978-1979 | \$1,304,020 |
| Reimbursements Fiscal Year 1977-1978 | \$949,088 |
| Percent increase | 37% |

LAPSED DEATH BENEFITS PAID INTO FUND

| | |
|--|----------|
| Fatal Cases Reviewed | 155 |
| 1. Above cases fully investigated or litigated | 10 |
| 2. Recovery | \$31,800 |

HEARINGS AND OTHER LEGAL PROCEEDINGS

| | |
|----------------------------|-----|
| Proceedings Attended | 360 |
|----------------------------|-----|

The rate of increase in claims against the Fund has decreased as a result of better quality claims made by carriers and employers. Also, the time period for filing claims has been extended. Many claims previously reported never went over 78 weeks of liability. Employers and carriers must now file claims before the payment of 78 weeks of compensation rather than before 78 weeks following the Injury.

**TOTAL DOLLARS PAID BY THE SECOND INJURY FUND TO
INSURANCE COMPANIES OR SELF-INSURED FOR
FISCAL YEAR 1978-79**

| | |
|---------------------------------------|-------------|
| Aetna | \$56,480.19 |
| American Insurance Co. | 25,022.39 |
| American Motorist | 22,998.75 |
| American Mutual | 48,113.93 |
| Associated Indemnity | 5,607.68 |
| Carolina Eastman* | 1,903.78 |
| Casualty Reciprocal Exchange | 11,500.00 |
| Commercial Union | 7,454.08 |
| Continental Casualty | 31,660.03 |
| Continental Insurance Co. | 9,494.13 |
| Crum & Forster | 8,833.48 |
| Electric Mutual | 6,000.00 |
| Employers Insurance of Wausau | 1,500.00 |
| Employers Mutual Liability | 16,173.49 |
| Fireman's Fund | 13,979.69 |
| Greenwood Mills* | 17,158.70 |
| Gifford-Hill | 24,651.16 |
| Hartford Insurance Co. | 6,126.91 |
| Hewitt, Coleman & Associates | 1,979.82 |
| Home Insurance Company | 56,685.29 |
| Randolph W. Hope Co. | 14,680.97 |
| INA Insurance Co. | 14,513.94 |
| International Paper Co. | 28,129.08 |
| Korf Industries* | 4,666.00 |
| Liberty Mutual Insurance Co. | 475,353.32 |
| Lumberman's Mutual Insurance Co. | 19,428.86 |
| The Maryland Company | 1,688.94 |
| Phillips Fibers* | 42,743.29 |
| Potomac Insurance Co. | 5,040.00 |
| Seaboard Fire & Marine | 15,254.12 |
| Security Insurance Co. | 11,999.15 |
| Shelby Mutual Insurance Co. | 13,421.57 |
| Singer* | 7,713.24 |
| Springs Mills, Inc.* | 1,229.70 |
| S. C. Insurance Co. | 24,056.60 |
| State Fund | 64,789.65 |
| St. Paul Fire & Marine | 8,805.44 |
| Transport Insurance Co. | 18,063.59 |
| Travelers | 43,069.07 |

| | |
|---------------------------------|-----------|
| U. S. Fidelity & Guaranty | 61,122.57 |
| Utica Mutual Insurance Co. | 12,043.38 |
| Westchester Fire | 4,000.00 |
| Westinghouse* | 6,133.74 |
| Westvaco* | 32,750.69 |
| *Self-Insured Employer | |

**INDIVIDUAL EMPLOYERS BENEFITING FROM
REIMBURSEMENT PAID TO INSURANCE COMPANIES OR
SELF-INSURED EMPLOYERS BY THE SECOND INJURY
FUND**

| | |
|--------------------------------------|-------------|
| Akers Motor Lines | \$11,071.79 |
| Alice Manufacturing Co. | 18,484.05 |
| American Bakeries | 10,509.75 |
| Anderson Electric | 11,999.15 |
| Anderson Textile | 9,494.13 |
| Associated Mechanical Erectors | 1,688.94 |
| H. B. Avant | 7,530.53 |
| Bahan Textile | 15,040.00 |
| Ballenger Corporation | 4,981.52 |
| B.A.S.S. Ltd. | 14,513.94 |
| Becker Sand & Gravel | 24,651.16 |
| Bi-Lo | 18,133.14 |
| Braxton Hauling | 7,454.08 |
| Brunswick Mills | 2,000.00 |
| Burlington Industries | 33,876.95 |
| Butte Knitting Mills | 11,604.72 |
| Campbell Soup | 24,450.77 |
| Campbell Tile | 5,040.00 |
| Carolina Cartage | 25,022.39 |
| Carolina Ceramics | 27.86 |
| Carolina Eastman | 1,903.78 |
| Carolina National Bank | 12,659.01 |
| Charter Oil Co. | 11,109.02 |
| Clemson | 10,384.10 |
| Collins Alkan Co. | 27,863.89 |
| Colonial Stores | 23,136.93 |
| Commercial Broadlooms | 5,453.85 |
| DHEC | 9,036.58 |
| Daniel Construction Co. | 21,285.11 |
| DelMonte Properties | 5,607.68 |

| | |
|--|-------------|
| Dillon Tire Service | 24,056.60 |
| Eastern Airlines | 12,757.68 |
| Emb Textiles | 30,754.88 |
| Essex International | 31,687.10 |
| European Health Spa | 538.56 |
| Evening Post Publishing | 4,020.52 |
| Forest Hills Nursing Home..... | 6,126.91 |
| Forrestry Commission..... | 12,000.00 |
| General Dynamics | 5,962.82 |
| General Electric | 6,000.00 |
| Gombert V. W..... | 3,412.97 |
| W. R. Grace Construction Co. | 26,678.51 |
| Greenwood Mills | 17,158.70 |
| Greenville, City of | 1,979.82 |
| Greenville Assn. for Retarded Children | 8,805.44 |
| Henry Lee Distributors..... | 15,000.00 |
| Hickory Springs Mfg. Co. | 20,522.08 |
| Hilton Head Company..... | \$16,500.00 |
| Holiday Inn | 4,035.00 |
| International Paper Co. | 28,129.08 |
| J. B. Ivey Co. | 4,286.81 |
| Ivey Electric Co..... | 20,148.63 |
| Jacobs Manufacturing Co..... | 39,576.01 |
| Johnson Company | 273.00 |
| Kline Iron | 8,642.96 |
| Kohler | 438.68 |
| Korf Industries | 4,666.00 |
| Jonathan Logan..... | 20,262.63 |
| Lowenstein | 36,150.29 |
| Lumberman's Mutual..... | 1,757.29 |
| M & R Packing Co..... | 1,500.00 |
| Marion Yarn | 6,126.23 |
| Mental Health | 8,929.26 |
| Mid-State Distributors | 18,244.14 |
| Milliken | 7,223.45 |
| Moon Brothers Tile..... | 13,421.57 |
| Motor Convoy | 4,590.65 |
| North Trident Regional Hospital | 15,254.12 |
| Palmetto Loom Reed | 7,447.00 |
| Pet, Inc. | 268.10 |
| Phillips Fibers | 42,743.29 |
| R. C. Motor Lines | 13,472.94 |

| | |
|--------------------------------------|-----------|
| Rice Music House | 11,500.00 |
| Richards & Associates | 5,000.00 |
| Riley Stoker Co. | 12,316.26 |
| SJ Chevrolet, Inc. | 11,268.00 |
| Santee Print Works | 353.88 |
| C. F. Sauer Co. | 29,287.28 |
| Benjamin Shaw Co. | 18,362.41 |
| Singer | 7,713.24 |
| Spartan Mills | 22,422.16 |
| Springs Mills, Inc. | 1,229.70 |
| St. Francis Community Hospital | 8,833.48 |
| Standard Trucking | 6,769.85 |
| J. P. Stevens & Co. | 71,897.65 |
| Texize Chemical | 12,043.38 |
| Textron | 710.36 |
| Tezza Textile | 13,979.69 |
| Timmons ville, City of | 24,439.71 |
| Tomlinson Engineering | 3,493.06 |
| Torrington Company | 1,478.88 |
| James Triplette | 2,419.50 |
| Universal Service of S.C. | 23,228.60 |
| W & W Mobile Homes | 7,945.22 |
| Westinghouse | 6,133.74 |
| Westvaco | 32,750.69 |
| Yeargin Construction Co. | 11,608.86 |

CLAIMS REPORTED BY:**A. Insurance Carriers**

| | |
|----------------------------------|-----|
| Aetna Casualty | 39 |
| Aetna Insurance Co. | 3 |
| Allstate Ins. | 1 |
| American Cas. Co. | 4 |
| American Insurance Co. | 1 |
| American Motorists Ins. Co. | 12 |
| American Mutual Ins. Co. | 22 |
| American Mutual Fire | 1 |
| American States Ins. Co. | 1 |
| Boston Old Colony Ins. | 2 |
| CNA | 1 |
| Cincinnati Ins. Co. | 1 |
| Commercial Ins. Co. | 1 |
| Commercial Union | 2 |
| Continental Cas. Co. | 3 |
| Continental Ins. | 8 |
| Electric Mutual Liability | 2 |
| Employers Ins. of Wausau | 7 |
| Federated Mutual Ins. | 1 |
| Fidelity & Casualty | 6 |
| Fidelity & Guaranty | 2 |
| Fireman's Fund | 1 |
| Georgia Cas. & Surety | 3 |
| Hartford A & I | 1 |
| Hartford Ins. Co. | 3 |
| Highlands Insurance | 1 |
| Home Indemnity | 2 |
| Home Insurance Co. | 13 |
| Ideal Mutual Ins. | 2 |
| INA | 5 |
| Liberty Mutual | 122 |
| Lumbermen's Mutual Cas. | 2 |
| The Maryland Co. | 2 |
| Maryland Casualty | 2 |
| Michigan Mutual Liability | 3 |
| National Union Ins. | 1 |
| North River Ins. | 3 |
| Northwestern National Ins. | 2 |
| Royal Globe | 2 |
| Royal Indemnity | 1 |
| SAFECO Ins. Co. | 1 |

| | |
|--|----|
| South Carolina Ins. Co. | 1 |
| St. Paul F & M | 1 |
| St. Paul Mercury Ins. | 1 |
| Standard Fire | 1 |
| State Workmens's Comp Fund | 25 |
| Transport Ins. | 1 |
| Transportation Ins. | 5 |
| Travelers | 5 |
| Twin City Fire | 1 |
| U.S.F. & G. | 8 |
| U.S. Fire | 4 |
| B. Self-Insured Servicing Companies | |
| Crawford & Co. | 4 |
| Crum & Forster | 3 |
| Gallagher Bassett Ins. Serv. | 2 |
| Hewitt, Coleman & Assoc. | 3 |
| Kemper Ins. | 1 |
| Randolph Hope | 10 |
| James Co. | 1 |
| Underwriters Adjusting | 2 |
| C. Self-Insured Employers | |
| Abney Mills | 1 |
| B & W Mich. Contractors | 1 |
| Beatrice Foods | 2 |
| Coats & Clark | 1 |
| Dan River | 1 |
| Greenwood Mills | 1 |
| International Paper | 2 |
| Jimmie Joe Craine | 1 |
| K-Mart | 1 |
| Nassau Recycle | 1 |
| Pee Dee Loggers | 2 |
| A. J. Penland | 1 |
| Pilot Freight Carriers | 1 |
| Riegel | 1 |
| S.C.E. & G. | 1 |
| Singer | 1 |
| Spector Freight | 1 |
| Uniroyal | 1 |
| W & W Haulers | 1 |
| Westvaco | 12 |
| Winn-Dixie | 1 |